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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/690,473	10/18/2000	Brett Haarala	06530-0020	1891
	7590 07/29/200 & MARCIN, LLP	8	EXAMINER	
150 BROADW.	AY, SUITE 702		WITCZAK, CATHERINE	
NEW YORK, NY 10038			ART UNIT	PAPER NUMBER
			3767	
			MAIL DATE	DELIVERY MODE
			07/29/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)	
	09/690,473	HAARALA ET AL.	
Office Action Summary	Examiner	Art Unit	
	CATHERINE N. WITCZAK	3767	
The MAILING DATE of this communication ap Period for Reply	ppears on the cover sheet with the c	correspondence address	
A SHORTENED STATUTORY PERIOD FOR REPLAY WHICHEVER IS LONGER, FROM THE MAILING IT Extensions of time may be available under the provisions of 37 CFR 1 after SIX (6) MONTHS from the mailing date of this communication. If NO period for reply is specified above, the maximum statutory period. Failure to reply within the set or extended period for reply will, by statu Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b).	DATE OF THIS COMMUNICATION .136(a). In no event, however, may a reply be tired will apply and will expire SIX (6) MONTHS from the cause the application to become ABANDONE	N. nely filed the mailing date of this communication. ED (35 U.S.C. § 133).	
Status			
1) Responsive to communication(s) filed on 14.	is action is non-final. ance except for formal matters, pro		
Disposition of Claims			
4)	awn from consideration. 4, and 116-123 is/are rejected.	pplication.	
Application Papers			
9) The specification is objected to by the Examin 10) The drawing(s) filed on is/are: a) ac Applicant may not request that any objection to the Replacement drawing sheet(s) including the correct 11) The oath or declaration is objected to by the Examin	cepted or b) objected to by the edrawing(s) be held in abeyance. Section is required if the drawing(s) is ob	e 37 CFR 1.85(a). jected to. See 37 CFR 1.121(d).	
Priority under 35 U.S.C. § 119			
12) Acknowledgment is made of a claim for foreig a) All b) Some * c) None of: 1. Certified copies of the priority documer 2. Certified copies of the priority documer 3. Copies of the certified copies of the priority application from the International Burea * See the attached detailed Office action for a list	nts have been received. nts have been received in Applicat ority documents have been receive au (PCT Rule 17.2(a)).	ion No ed in this National Stage	
Attachment(s) 1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date	4) Interview Summary Paper No(s)/Mail D 5) Notice of Informal F 6) Other:	ate	

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DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR

1.17(e), was filed in this application after final rejection. Since this application is eligible for continued

examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the

finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's

submission filed on 7/14/2008 has been entered.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis

for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on

sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 66, 70, 74, 75, 76, 77, 79, and 119 are rejected under 35 U.S.C. 102(b) as being

anticipated by Ensminger (US 5,263,930).

Ensminger discloses in Figure 2 an access port comprising an upper body porito (58), a lower

body portion (12), and a septum (56) disposed inbetween; a reservoir (52) defined by the body; an outlet

(42) connected to a catheter (44); a guidewire (66); an access site [with regards to claims 66, 76 and 77

this would be through the septum 56; with regards to claim 70 it would be 16]; and an entry site [with

regards to claims 66, 76 and 77 this would be 16, with regards to claim 70 it would be through the septum

56] disposed substantially perpendicular to the access site;

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise

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extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-25 of U.S. Patent No. 6,190,352. Although the conflicting claims are not identical, they are not patentably distinct from each other because they disclose substantially the same subject matter.

Allowable Subject Matter

- 3. Claims 60, 61, 63-65, 67, 68, 78, 113, 114, 116, 118, and 120-122 are allowed provided the double patenting rejection is overcome.
- 4. Claims 71, 72, and 123 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims and the double patenting rejection is overcome.

Response to Arguments

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

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Any inquiry concerning this communication or earlier communications from the examiner should

be directed to CATHERINE N. WITCZAK whose telephone number is (571)272-7179. The examiner

can normally be reached on Monday through Friday, 8-5 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin

Sirmons can be reached on (571) 272-4965. The fax phone number for the organization where this

application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application

Information Retrieval (PAIR) system. Status information for published applications may be obtained

from either Private PAIR or Public PAIR. Status information for unpublished applications is available

through Private PAIR only. For more information about the PAIR system, see http://pair-

direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer

Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR

CANADA) or 571-272-1000.

/Catherine N Witczak/

Examiner, Art Unit 3767

/Kevin C. Sirmons/

Supervisory Patent Examiner, Art Unit 3767